



August 31, 2010

RE: Community Reinvestment Act Regulation Hearings

OCC: Docket ID OCC-2010-0011

Federal Reserve Board: Docket No. R-1386

FDIC: RIN 3064-AD60

OTS-2010-0019

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC) testified at the Community Reinvestment Act regulation hearing on July 19 and submitted testimony for that hearing. We are writing a second comment letter in order to elaborate on certain comments and issues raised during the hearings, such as weights on CRA exams.

We also attach to this comment letter a NCRC report on small business lending, which shows a clear association between small business lending and job creation. At the same time, the study reveals that CRA-related small business lending and employment lags in counties with high concentrations of minorities. This finding suggests the need for CRA to include consideration of lending and service to communities of color.

The National Community Reinvestment Coalition is an association of more than 600 community-based organizations that promotes access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families. Our members have submitted over 100 comments during the course of these hearings.

Weights on CRA Exam

In our July 19 testimony for the first CRA hearing, NCRC suggested that weights be assigned to categories of loans, investments, and services based on the affordability and responsiveness to community needs. This letter elaborates on how to weight based on affordability and responsiveness for each of the component tests.

Lending Test

The affordability and suitability of the loans could be based on the definition in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Loans that meet the definition of qualified mortgages in Dodd-Frank could be weighted twice as heavily (or some other significant weight) than other loans. Since Congress judges that qualified mortgages are safer and sounder



than other home loans and CRA requires safe and sound lending, the regulatory agencies would be implementing statutory requirements of both Dodd-Frank and CRA by weighting loans in this manner.

A qualified mortgage in Dodd-Frank is defined as a mortgage that does not contain negative amortization or balloon payments. In addition, income verification is required and the ability to repay is based on a fully amortizing schedule and payments for taxes and insurance. For adjustable rate loans, the ability to repay is based on the maximum rate during first five years of the loan. Moreover the loan will not exceed a debt-to-income ratio established by regulation and will provide enough income after debt payments to afford basic necessities. The term of the loan is 30 years and total points and fees of the loan will not exceed 3 percent of loan amount. With these protections, qualified mortgages are likely to be safe and sound in contrast to the high-cost and exotic loans that proliferated in the last several years that did not adequately assess borrower ability to repay, had exorbitant fees, and became rapidly more expensive as initial, teaser rates expired.

For small business loans and consumer loans, the agencies could develop a similar definition of a qualified loan which is a category of loans that have demonstrated the best safety and soundness record. Loan performance data on delinquency and defaults could be used in an aid in developing qualified loans for small business and consumer loans.

The responsiveness of loans to community needs can be established by the needs assessments that Dan Immergluck, the Local Initiatives Support Corporation, and others have suggested. For example, in some metro areas and rural counties, a major need for home lending may be home improvement loans due to the age of the housing stock. In the highest cost markets, rental housing should be emphasized. In areas of the country most in need of home improvement loans, home improvement loans would receive significant weight, and in high cost areas, rental housing would receive significant weight. Of course, this weighting would be adjusted to account for market niches of particular lenders. It would not be appropriate, for example, to fail a bank that is not a significant home lender if the bank specializes in small business lending and performs reasonably in offering loans to low- and moderate-income neighborhoods. This type of weighting to account for banks' market niches already occurs on CRA exams.

Community Development Test

Categories of investments based on affordability could be created and weighted. Patient capital and investments that are made at a below market rate of return could be weighted the most. In addition, more routine activities that do not materially impact the affordability of financing such as purchasing mortgage backed securities (MBS) should receive much less weight. It is probably the case that MBS is not as helpful as other secondary market activities such as those that

support small business lending. The housing market has a better developed secondary market than the small business market, suggesting that investing in mortgage backed securities would not facilitate as much affordable financing as investing in small business loans.

A separate category of grants to nonprofit organizations engaged in community development, housing, and small business should be created and assigned its own weight. In the spirit of CRA sunshine, the grants and the organizations receiving them should be listed on the CRA exams with information about their impact such as the number of homeowners or small business owners counseled.¹ Grants with more documentation regarding benefits should receive more weight.

Community needs assessments could also inform the weight given to various investments and community development loans. In some metropolitan areas and rural counties, job creation may be the most pressing need, while in others, addressing housing stock deficiencies might be the most pressing need. Within categories of housing, small business, and community development, community needs assessments would indicate priorities such as new construction or rehabilitation in the housing category. Weights could be assigned to reflect the priorities identified by the community needs analyses. While not an easy task, weighting to reflect responsiveness to needs could leverage types of financing desperately needed but in short supply.

Service Test

Bank deposits and other services could be weighted based on affordability by using guidelines developed by the regulatory agencies. A current example is the proposed FDIC guidelines on overdraft protection that would include daily limits on customer costs, contacting consumers with several and recurring overdrafts and discussing alternative services, and avoiding check clearing procedures that maximize overdraft fees. Products that comply with these guidelines would receive more weight than others that are more costly and harder for consumers to understand.

Community needs assessments are also valuable for prioritizing different types of services. The FDIC's recent study of the unbanked or underbanked reveals the un- and under-banked populations by metropolitan areas. The areas with the greatest percentages of underbanked populations could be areas particularly targeted for basic banking accounts or debit cards. More weight could be given for products tailored for the un- or under-banked in these areas. At the same time, however, the weighting system should not discourage products for the un- or under-

¹ Listing grants in this manner on CRA exams could replace the bureaucratic and little-used CRA sunshine disclosures required by Gramm-Leach-Bliley. It would be more useful to have thoughtful documentation of grants on CRA exams than documents submitted via reporting requirements, which to our knowledge, do not get used, except in a report conducted by NCRC in 2001 documenting the benefits of CRA.



banked in other areas since the needs will still be pressing for these products. Fine tuning the weighting system would involve giving the priority metropolitan or rural areas a weight in the order of magnitude of 1.5 as opposed to 3 (or some other very high weight) so as to not discourage products for the under- or un-banked populations in other areas. This fine tuning should also be applied regarding priorities identified by community needs assessments in components tests of lending and community development so as not to unduly discourage the use of products in other areas that do not have the priority needs.

As stated in our previous testimony, deposit data is essential to create a meaningful service test. The current absence of this data makes it quite difficult to determine if low- and moderate-income or minority communities are receiving deposit accounts and bank services. Some bank representatives have stated that alternatives to bank branches have been effective in delivering deposit products. It would be inappropriate, however, to provide significant points on CRA exams for these channels if they are not effective in serving low- and moderate-income communities. Only comprehensive deposit data can enable regulatory agencies and community groups to assess if banks with differing delivery channels are actually serving low- and moderate-income communities. Accordingly, NCRC urges the agencies to collect and use this data on CRA exams.

Weighting Activities Beyond Assessment Areas

As discussed in our previous testimony, NCRC is supportive of granting favorable consideration on CRA exams for community development financing such as Low Income Housing Tax Credits outside of assessment areas provided that the bank has first met the needs in their assessment areas. In addition, NCRC is supportive of granting CRA consideration to community development financing in a multi-regional area. It makes the most sense, however, to direct this community development activity to geographical areas most in need.

In order to determine the areas most in need, NCRC reiterates our request for publicly available data on community development lending and investment on a census tract level. This data would enable the bank agencies and the public to compute community development lending or investment per capita on either a neighborhood or county level. The geographical areas with the least amount of community development financing on a per capita basis would be candidates for heightened attention, particularly if other data indicates pressing needs such as a shortage of affordable housing. For example, Low Income Housing Tax Credits (LIHTC) outside of assessment areas could be weighted the most in geographical areas with the most expensive rental housing and with the least amount of LIHTC financing per capita.



Assessment Areas

The CRA hearings have posed the question of how the agencies could conduct CRA exams if assessment areas are considerably expanded to include hundreds of areas for the largest banks. NCRC believes that technological improvements in data manipulation combined with thoughtful analysis makes it possible to rigorously evaluate performance in several areas. Currently, the exams provide repetitive narrative for each full scope assessment area that covers every aspect of each component test. Rather, the CRA exams can focus narrative on selected full-scope assessment areas that explain why performance was strong or weak in certain full-scope areas.

The tables in the exam can provide information, as they do now, on how the banks perform on various indicators. For example, the bank's percentage of loans to low- and moderate-income borrowers is compared against the industry aggregate and the percentage of households that are low- and moderate-income. Likewise, the bank's market share to various income groups is compared. The tables can identify those full scope assessment areas where the bank's performance is the best on these measures and where the bank's performance is worse. For example, the difference between the bank's and industry's percentage of loans to low- and moderate-income borrowers can be computed and the table can list the results in descending order. If the calculation is a bank's percentage minus the industry's percentage, the difference is listed in descending order of assessment area with the highest positive number representing the best performance on this measure. Since more than one loan type and more than one measure will be evaluated, the final comparisons across full scope assessment areas would be the weighted average of the performance measures. The tables would then identify assessment areas where performance is strong, average, and weak. In this manner, the CRA exams would direct attention to areas where banks need to improve.

Qualitative measures are also amenable to a sorting process. In some areas, banks will be offering particularly innovative loans, investments, and services responsive to needs while in others, their offerings will be lacking. Examiners can report upon the assessment areas in a manner that sorts their performance on qualitative measures as well.

Sorting full scope assessment areas into areas where performance is good, average, and weak is a thoughtful method for conducting CRA exams and would allow for a significant expansion of full scope assessment areas. The rationale against expanding assessment areas because it would be time consuming is not convincing, particularly since thoughtful ways of expansion can readily be developed.

Full-scope assessment areas must be the great majority of assessment areas on exams instead of the minority of assessment areas on exams. Moreover, expanding assessment areas to include the



great majority of lending and other bank activity is imperative for CRA exams to accurately measure whether banks are serving the communities in which they do business.

As an illustration of the importance of expanding assessment areas, NCRC finished the analysis started in our July 19th testimony of the percentage of loans covered by CRA exams in the four hearing locations. Our analysis reveals that the percentage of loans made by banks with significant market share (at least one half of one percent) ranges from 47 percent in Chicago to 35 percent in Atlanta using the 2008 HMDA data (recall that the threshold of one half of one percent is contained in H.R. 1479 as discussed in our July 19th testimony). Generally speaking, the institutions with less market share (of under 2 percent) are less likely to have an assessment area in one of the four hearing locations. Excluding these institutions from coverage has resulted in less than half of the loans in these four large metropolitan areas being scrutinized by CRA exams. As the tables below indicate, the majority of the exclusion is attributed to CRA exams not including the metropolitan areas as assessment areas for banks or their affiliates rather than credit unions or independent mortgage companies not being covered by CRA. For example, in the Los Angeles metropolitan area, 15 institutions were either banks or mortgage company affiliates of banks that did not have Los Angeles as an assessment area. In contrast, 10 institutions were not covered by CRA because they were credit unions or independent mortgage companies. This troubling result suggests that more than half the market is not being examined for responsiveness to community needs for safe and sound loans and banking products.

During the hearings, a question was raised about whether banks would pull out of geographical areas if the areas became full-scope assessment areas on CRA exams. Banks and their affiliates enter markets for many reasons, judging that their entry is profitable business. They have expended considerable resources establishing a presence and marketing themselves. Postulating that they would now pull out of a market because they have a requirement to serve communities safely and soundly does not make sense. Banks would not be in business if they did not serve communities in a responsible manner. Moreover, these assertions fail the empirical test. As a whole, CRA regulated institutions have fared quite well, especially recently, in the market compared to their non-CRA regulated entities.

Lending Institutions with Market Share Greater than 0.5 %, DC MSA														
Market Share Criteria	Count of Institutions					Count of Institutions under CRA Exams						Count of Loans		
	Total	Banks	Credit Union	Mortgage Company	Mortgage Company Affiliated with Banks	Total	% of Total	Banks	% of Banks	Mortgage Company	% of Mortgage Company	Total Loans	Loans under CRA Exams	% of Loans under CRA Exams
>= 5%	4	3		1	1	3	75.00%	2	66.67%	1	100.00%	38,035	27,442	72.15%
2 - 4.99%	5	3	2			1	20.00%	1	33.33%	0		18,903	2,908	15.38%
1 - 1.99%	12	6		6	4	3	25.00%	1	16.67%	2	50.00%	21,488	4,678	21.77%
0.5- 0.99 %	17	4	1	12	4	3	17.65%	2	50.00%	1	25.00%	14,312	3,242	22.65%
Total (=>0.5%)	38	16	3	19	9	10	26.32%	6	37.50%	4	44.44%	92,738	38,270	41.27%

Lending Institutions with Market Share Greater than 0.5 %, Atlanta MSA														
Market Share Criteria	Count of Institutions					Count of Institutions under CRA Exams						Count of Loans		
	Total	Banks	Credit Union	Mortgage Company	Mortgage Company Affiliated with Banks	Total	% of Total	Banks	% of Banks	Mortgage Company	% of Mortgage Company	Total Loans	Loans under CRA Exams	% of Loans under CRA Exams
>= 5%	4	3	0	1	1	2	50.00%	1	33.33%	1	100.00%	40,129	20,317	50.63%
2 - 4.99%	4	2	0	2	0	0	0.00%	0	0.00%	0		15,987	0	0.00%
1 - 1.99%	12	8	0	4	1	5	41.67%	5	62.50%	0		23,962	11,203	46.75%
0.5- 0.99 %	19	7	1	11	4	3	15.79%	3	42.86%	0		17,108	2,822	16.50%
Total (=>0.5%)	39	20	1	18	6	10	25.64%	9	45.00%	1	16.67%	97,186	34,342	35.34%

Lending Institutions with Market Share Greater than 0.5 %, Los Angeles MSA														
Market Share Criteria	Count of Institutions					Count of Institutions under CRA Exams						Count of Loans		
	Total	Banks	Credit Union	Mortgage Company	Mortgage Company Affiliated with Banks	Total	% of Total	Banks	% of Banks	Mortgage Company	% of Mortgage Company	Total Loans	Loans under CRA Exams	% of Loans under CRA Exams
>= 5%	5	4	0	1	1	2	40.00%	2	50.00%	0	0.00%	58,847	26,462	44.97%
2 - 4.99%	3	3	0	0	0	1	33.33%	1	33.33%	0		10,474	4,840	46.21%
1 - 1.99%	9	3	0	6	3	3	33.33%	2	66.67%	1	33.33%	14,285	5,045	35.32%
0.5- 0.99 %	15	6	1	8	2	1	6.67%	1	16.67%	0	0.00%	11,106	1,006	9.06%
Total (>=>0.5%)	32	16	1	15	6	7	21.88%	6	37.50%	1	16.67%	94,712	37,353	39.44%

Lending Institutions with Market Share Greater than 0.5 %, Chicago MSA														
Market Share Criteria	Count of Institutions					Count of Institutions under CRA Exams						Count of Loans		
	Total	Banks	Credit Union	Mortgage Company	Mortgage Company Affiliated with Banks	Total	% of Total	Banks	% of Banks	Mortgage Company	% of Mortgage Company	Total Loans	Loans under CRA Exams	% of Loans under CRA Exams
>= 5%	4	3	0	1	1	2	50.00%	2	66.67%	0	0.00%	62,814	33,488	53.31%
2 - 4.99%	6	4	0	2	1	5	83.33%	4	100.00%	1		37,480	30,974	82.64%
1 - 1.99%	10	4	0	6	2	0	0.00%	0	0.00%	0	0.00%	31,059		0.00%
0.5- 0.99 %	14	7	0	7	2	5	35.71%	4	57.14%	1	50.00%	20,678	7,657	37.03%
Total (>=>0.5%)	34	18	0	16	6	12	35.29%	10	55.56%	2	33.33%	152,031	72,119	47.44%



Conclusion

As you undertake these important CRA regulatory reforms, NCRC urges you to enact changes to weighting, assessment areas, data disclosure, treatment of affiliates, fair lending reviews, and other critical aspects of CRA exams in a rigorous manner. These changes would increase the amount of responsible lending, investing, and bank service in traditionally underserved communities. Banks would become stronger and more competitive and underserved communities would be able to rebuild themselves after the devastation caused by non-CRA and lightly regulated lending.

Thank you for considering our views in this important matter. If you have any questions, please feel free to contact me or Josh Silver, Vice President of Research and Policy on 202-628-8866.

Sincerely,

A handwritten signature in black ink, appearing to read "John Taylor".

John Taylor
President and CEO



Does CRA Small Business Lending Increase Employment: An Examination on a County Level

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